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To:	Examiner Gupta United States Patent & Trademark Office	From:	Mark J. Cohen, Esq.
Fax:	1-571-273-0965	Pages:	17 (including fax cover sheet)
Phone:		Date:	January 24, 2005
Re:	Alan P. Kozikowski, et al. U.S. Patent Appln. No. 09/246,307 Our Docket: 15004Z	CC:	

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

Please see the attached.

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January 24, 2005
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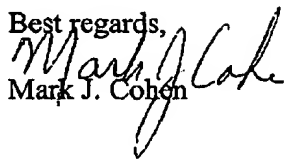
Examiner Gupta
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Alan P. Kozikowski, et al.
U.S. Patent Appln. No. 09/246,307
RCT Project No. 009328-0009
Our Docket: 15004Z

Dear Examiner Gupta:

Pursuant to your request, enclosed herewith is another copy of the Submission For Request of Revival of Application Pursuant to 37 C.F.R. §1.8.

Best regards,


Mark J. Cohen

MJC:ng
Enclosures

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PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**Applicant(s):** Alan P. Kozikowski, et al.**Examiner:** Anish Gupta**Serial No.:** 09/246,307**Art Unit:** 1654**Filed:** February 8, 1999**Docket:** 15004Z**For:** CYCLIC DIPEPTIDES AND AZETIDINONE
COMPOUNDS AND THEIR USE IN TREATING
CNS INJURY AND NEURODEGENERATIVE
DISORDERS**Dated:** June 30, 2003Commissioner for Patents
Alexandria, VA 22313-1450**SUBMISSION FOR REQUEST OF REVIVAL OF APPLICATION
PURSUANT TO 37 C.F.R. §1.8**

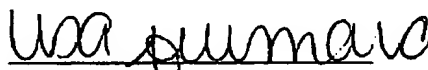
Sir:

Pursuant to 37 C.F.R. §1.8, applicants respectfully request that the United States Patent and Trademark Office withdraw its Notice of Abandonment improperly issued and revive the above-identified application.

The United States Patent and Trademark Office improperly issued a Notice of Abandonment dated June 18, 2003, alleging that the applicants did not file a proper reply to the Office Action dated January 17, 2001. Applicants respectfully submit that they did timely file a proper reply to the Official Action.

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Dated: June 30, 2003
Lisa Fiumara

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It appears that the confusion on this issue is caused by the mistake of the United States Patent and Trademark Office in characterizing the Official Action of January 17, 2001, as a Final Rejection. However, the Official Action dated January 17, 2001 was not a Final Rejection. As evidence thereof attached hereto is a copy of the Office Action dated January 17, 2001 as Exhibit A. A review of the Office Action clearly reveals that it was a non-final Office Action. Consequently, since it was a non-final Office Action, no Notice of Appeal is required to be filed. A complete response thereto just requires a written Response to the issues raised in the Office Action.

In fact, a complete Response thereto accompanied by a Declaration under 37 C.F.R. §1.132 and a petition for a three-month extension of term and the appropriate Official fees were filed on July 11, 2001. No other documents were filed or needed to be filed in response to the Official Action.

In addition, a Supplemental Information Disclosure Statement was filed on July 11, 2001.

As evidence that the United States Patent and Trademark Office received the documents, attached hereto as Exhibit B is a copy of the Advisory Action dated April 4, 2002 improperly issued. A review of the third page of the Advisory Action indicates receipt of the Official Response, Declaration and Supplemental Information Disclosure Statement by the United States Patent and Trademark Office.

However, it appears that the United States Patent and Trademark Office mistakenly believes that the Official Action of January 17, 2001, was a Final Rejection, which it clearly was not. As a consequence of its belief, it improperly issued an Advisory Action, which

was dated April 4, 2002, a copy of which is attached hereto as Exhibit B. But, since the Official Action was non-final, no Advisory Action should have been issued in the first instance.¹

Shortly after receipt of the Notice of Abandonment, applicants' attorney contacted Examiner Gupta, on June 30, 2003, who advised him that the records in the United States Patent and Trademark Office incorrectly indicate that the Office Action of January 17, 2001 was a Final Rejection. Examiner Gupta advised that applicants should respond to the Notice of Abandonment and advise therein of the mistake in the characterization of the Official Action of January 17, 2001 as a Final Rejection.

Applicants' attorney wishes to thank Examiner Gupta for his helpful suggestions.

Applicants' attorney have followed Examiner Gupta's advice and reiterate that the Official Action of January 17, 2001 was non-final, as clearly shown by Exhibit A. A review thereof clearly shows that there is no indication anywhere on the Official Action that it was a Final Official Action. Thus, the Response dated July 11, 2001, accompanied by the Declaration under 37 C.F.R. §1.132, which was timely filed, addressed the issues raised in the Official Action and was a complete Response thereto. Consequently, the United States Patent and Trademark Office have should not have abandoned the above-identified application.

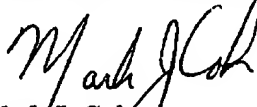
Applicants respectfully request that the records of the United States Patent and Trademark office be corrected to reflect that the Official Action of January 17, 2001 was non-final. Moreover, applicants respectfully request that the application be revived for examination. In addition, applicants respectfully request that the Response duly filed on July 11, 2001 be reviewed and considered on the merits. Finally, applicants respectfully request that the

¹ Applicants' attorney contacted Examiner Gupta shortly after the issuance thereof as well as in September and December 2002 and February 2003 to advise him of the error.

Supplemental Information Disclosure filed on July 11, 2001 be made of record in the above-identified application.

A Petition Fee is not expressly required under the controlling provisions of 37 C.F.R. §1.8(b). Authorization is given, however, to charge payment of any necessary fees associated with the Communication to Deposit Account No. 19-1013/SSMP. A duplicate copy of this paper is enclosed.

Respectfully submitted,



Mark J. Cohen
Registration No. 32,211

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MJC:lf